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July 23, 2012

Re: Confirmation of Status as a Fuel for ReEngineered Feedstock™

Dear Mr. Goffman and Ms. Feldt:

We greatly appreciate your staff taking the time to meet with us on Tuesday, July 17, to discuss outstanding issues related to the request of our client, ReCommunity, Inc., for confirmation that its ReEngineered Feedstock™ is properly designated as a fuel under 40 C.F.R. §241.3(b)(4) of the Non-Hazardous Secondary Materials (NHSM) rule. As discussed at that meeting, Section 241.3(b)(4) requires the material to meet the legitimacy criteria specified in paragraph (d)(1) of Section 241.3, among other factors. For materials for which there is an analogous fuel, that paragraph contains various conditions (e.g., material management, comparable contaminant levels) to ensure that the material is suitable for use as a fuel for the particular markets and applications for which it is intended. Your staff asked for further information from ReCommunity to demonstrate that the characteristics of ReEngineered Feedstock will satisfy these conditions. The purpose of this letter is to provide the requested information regarding the special material segregation, selection, treatment and processing of ReEngineered Feedstock required both to address market demands and to meet the NHSM conditions. We have previously provided you with additional details regarding the technology and incorporate those communications here by reference.

I. RECOMMUNITY IS DRIVEN BY THE GOAL OF INCREASING RECYCLING

As we have discussed previously, ReCommunity, Inc. is the largest pure-play, independent recycling company in the United States. ReCommunity is focused on maximizing the recovery of marketable recyclables from mixed waste streams (*i.e.* unsorted municipal solid waste (MSW), commercial waste, and institutional waste) and reducing landfilling. ReCommunity partners with communities and municipalities to increase revenues by maximizing recycling participation and the amount of material diverted at the curb, as well as maximizing the percentage of materials recovered and minimizing discard. Unlike traditional waste haulers and solid waste disposal companies, ReCommunity does not own any landfills, generates no revenue from landfilling or discard, and must pay fees to landfill any materials that are not recovered.

Traditionally, the commercial viability of a pure-play recycling and recovery business model has been undermined by the inability to generate revenue from a large enough percentage of the incoming waste stream. Pure-play recycling and recovery companies could only capture 34%[1] of the incoming waste stream to sell on commodity markets. Not only did the remaining waste fail to generate revenue, but it cost the company money to process and landfill. ReCommunity plans to address the adverse economics of pure-play recycling by increasing the rate of recycling through their Multi-Material Processing Platform (MMPP) and by developing ReEngineered Feedstock to convert a discrete portion of the remaining non-recyclable materials into a useful product. By utilizing the energy content in non-recyclable fibers and plastics, ReEngineered Feedstock allows ReCommunity to improve platform economics by recycling and recovering between 70-85% of the incoming waste stream and reducing expenses by minimizing landfilling costs.

While improving the economic model of pure-play recycling is vital to the expansion of recycling, ReCommunity's goal is to find the highest value and most efficient use for each material. This means recycling *all* recyclable materials and using only non-recyclable materials for ReEngineered Feedstock and other end-uses (*i.e.* organic diversion through anaerobic digestion to energy and compost). ReEngineered Feedstock uses only discrete, selected non-recyclable materials that have energy content and are capable of being combusted (*i.e.* the fibers and plastics).

The inherent variability and heterogeneity of the incoming MSW and other mixed waste means that the percentage of waste that is recycled, manufactured into ReEngineered Feedstock, composted, or put to another use will vary. What remains constant is that ReCommunity disposes of only those materials that cannot be recycled, that generate harmful emissions when combusted, or that cannot be put to another viable end-use. Finding a productive use for the greatest possible percentage of the non-recyclable portion of the incoming waste is a necessary financial step to enable the commercial viability of the maximized recycling that remains ReCommunity's core business. Further, ReCommunity's incentive to decrease the disposal rate

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[1] EPA Municipal Solid Waste Generation, Recycling and Disposal in the U.S.: Facts and Figures for 2010.

is aligned with that of its customers, typically municipalities that would otherwise have to pay landfilling fees.

II. MARKET ANALYSIS

Once ReCommunity determined that creating a marketable product from the remaining non-recyclable material was necessary for the commercial viability of their increased recycling model, they analyzed the potential markets for the combustible portion of this material. The combustible materials had a relatively high energy content, but were highly variable in composition. ReCommunity's research determined that a consistent product was necessary to compete in all the potential markets they identified. Owners of industrial boilers, cement kilns and power plants will not pay a price comparable to that of their traditional fuel for a substitute fuel with contaminants that would increase their near or long-term cost of operations, or that would potentially subject them to §129 of the Clean Air Act (CAA). They are worried about corrosion impacts, reduced efficiency and the possible release of contaminants. Traditional MSW or moderately modified refuse-derived fuel is not pure enough, and is too variable to provide comfort to the majority of these users today, and to all users once the new §129 rules are in effect. As a result, the initial design parameter for ReEngineered Feedstock was that it provide consistent material properties similar to the traditional fuels it was designed to supplement, typically coal in this first market.

Another key criterion was to allow the use of ReEngineered Feedstock without significant expense or modification on the part of our potential customers. ReCommunity believes that anything less than a seamless integration of ReEngineered Feedstock into our customers' existing operations, with minimal capital investment, would likely prove an insurmountable market barrier. In short, ReCommunity believes that ReEngineered Feedstock must be a truly comparable fuel in both its performance and the form in which it will be used.

A. Air Emissions

One aspect of comparable performance is air emissions. Although ReCommunity designed ReEngineered Feedstock to provide significant emissions control benefits through the inclusion of sorbents, the base materials sourced from waste could not generate additional emissions above and beyond those of the traditional fuels used by our potential customers. ReCommunity's analysis of the combustible materials indicated that the plastics required thermal treatment and PVC removal and the constituent fibers and plastics must be synthesized at fixed and precise ratios to guarantee the consistent emissions performance of the ReEngineered Feedstock to a level that would be satisfactory in the marketplace.

In order for ReEngineered Feedstock to support the capital investment necessary to construct a ReCommunity processing and manufacturing facility, ReCommunity must be able to guarantee a long-term market for ReEngineered Feedstock. As a result, ReEngineered Feedstock must guarantee emissions performance over the long term to allow a customer facility to meet the upcoming tightening of various emissions standards. ReCommunity has designed ReEngineered Feedstock as a combination fuel and emissions control product, and in order to

succeed at both, ReEngineered Feedstock must be sufficiently processed and its components treated to guarantee future compliance with upcoming regulations.

B. Legitimacy Criteria

Similarly, to meet the legitimacy criteria of 40 C.F.R. § 241.3(d)(1), ReEngineered Feedstock must maintain contaminant values less than or comparable to that found in the existing fuel, likely coal. ReCommunity's market analysis indicates that potential customers would not accept any significant risk of being considered to burn solid waste, and thus regulated under CAA §129. As a result, ReCommunity must be able to guarantee that ReEngineered Feedstock consistently exceeds the legitimacy criteria, with a reasonable safety margin. Due to the variability in component ratios and contaminant concentrations within MSW, the only way ReCommunity can guarantee compliance with coal contaminant level criteria is by recombining the materials in a specific ratio, removing PVC, and thermally treating plastic constituents to an appropriate degree. For example and by contrast, ReCommunity testing has indicated that only minimally processed, untreated MSW material can have chlorine levels over 20,000 ppm on a dry basis, far exceeding EPA's peak coal value of 9,080 ppm.

In addition, ReCommunity believes that its customers will require a fuel with a heating value that is both consistent with and comparable to that of their current fuel source. By precisely fixing the ratio of the constituent ingredients, ReCommunity can provide a consistent heating value that is comparable to the coal with which ReEngineered Feedstock™ was to be co-fired. Simply put, a product that merely retained the composition and characteristics of the remaining materials (*i.e.* those remaining after all recyclables and non-combustibles were removed) would not satisfy customer needs for the fuel's specific applications. In addition, the legitimacy criteria require meaningful heating value and ReCommunity could not guarantee that its product would meet that requirement without precisely fixing the ratio of constituent ingredients in ReEngineered Feedstock.

As a result, ReCommunity has engineered its ReEngineered Feedstock MMPP process to both identify and separate materials for inclusion in the final product. However, it must also remove high-emissions generating materials such as PVC, thermally treat the remaining plastic components to remove excess chlorine, and synthesize those materials at a precise ratio. Only with these additional processing steps can ReCommunity guarantee to its customers that the resulting fuel product meets their needs, performs consistently as a comparable fuel and emissions control technology, and meets the NHSM legitimacy criteria.

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Thank you for your continued consideration of ReCommunity's request for confirmation. Should you have any questions or comments, please do not hesitate to contact Bob Wyman at Robert.Wyman@lw.com or (213) 891-8346 or Claudia O'Brien at Claudia.O'Brien@lw.com or (202) 637-2181.

Sincerely,

Robert Wyman /s/ EGR

Robert Wyman
of LATHAM & WATKINS LLP
counsel to ReCommunity, Inc.

cc: Peter Tsirigotis

Matt Straus